

FEB 28 2006

BEFORE THE FEDERAL ELECTION COMMISSION

SECRETARIAT

2006 FEB 28 A 9 29

In the Matter of

Groundswell Voters PAC
Jerome Dewald
Jonathan Mosier

MUR 5385

SENSITIVE

GENERAL COUNSEL'S REPORT #3

I. ACTIONS RECOMMENDED

Take no further action as to Groundswell Voters PAC and Jerome Dewald other than to send letters of admonishment; take no further action as to Jonathan Mosier; close the file; and approve the appropriate letters.

II. BACKGROUND

This matter involves allegations that Groundswell Voters PAC ("Groundswell") violated 2 U.S.C. § 441h(b) by fraudulently misrepresenting that it was acting for or on behalf of former Congressman Richard Gephardt in mailing undated fundraising letters requesting contributions of up to \$5,000 to fund a purported grassroots effort to benefit Gephardt for President, Inc. ("Gephardt Committee"). The Gephardt Committee, which filed the complaint in this matter, asserted that Groundswell had no authority to act on its behalf and that it was wholly unaware of the organization's fundraising activities until it obtained copies of the Groundswell solicitations in August 2003.

Based on this and other information set forth in the First General Counsel's Report, on November 30, 2004, the Commission found reason to believe that (1) Groundswell knowingly and willfully violated 2 U.S.C. §§ 433, 434, 438(a)(4), and 441h(b), and (2) Jerome Dewald and Jonathan Mosier, two individuals associated with the organization, knowingly and willfully

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violated 2 U.S.C. §§ 438(a)(4) and 441h(b).¹

III. RESULTS OF THE INVESTIGATION

Groundswell appears to be a fictitious organization that Dewald used to solicit contributions by fraudulently misrepresenting that he was acting for or on behalf of the Gephardt Committee. In January 2003, Dewald incorporated Groundswell as a Michigan nonprofit corporation and registered several websites, on which he solicited contributions by purporting to

¹

1 support anti-war activism. *See* MURs 5384 and 5385, First General Counsel's Report at 12, n.3.

2 In or around August 2003, Groundswell mailed an unknown number of undated fundraising
3 letters requesting contributions of up to \$5,000 for grassroots efforts "to help propel Dick
4 Gephardt to the Democratic nomination and on to the Presidency in 2004." *See* MURs 5384 and
5 5385, First General Counsel's Report at 9-12. These solicitations falsely claimed that
6 Groundswell was registered with the Internal Revenue Service, provided a phony tax
7 identification number, and stated that the organization was an "independent Political Action
8 Committee" despite the fact that it was not registered as a political committee with the
9 Commission or the Michigan Secretary of State.

10 Groundswell's fundraising solicitations used the address of HQ Global, a mail drop
11 located at 6701 Democracy Boulevard, Suite 300, Bethesda, MD 20817, and arranged to have
12 mail forwarded from Maryland to his business address in Michigan.

13 Records obtained from HQ Global
14 indicate that Dewald began receiving mail at that address as early as March 2003.

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16 In connection with the state fraud prosecution Dewald
17 was imprisoned in September 2003, and the mail forwarded by HQ Global accumulated at a Post
18 Office in East Lansing, Michigan. The Post Office considered the mail abandoned and returned
19 it to HQ Global in December 2003. After attempting to reach Dewald, HQ
20 Global contacted the U.S. Postal Inspection Service ("U.S.P.I.S.") Washington Division, which
21 seized the mail.

22 The U.S.P.I.S. obtained approximately 4100 pieces of mail from HQ Global.

23 Approximately 1200 to 1600 of these envelopes contained checks ranging, on

average, between \$50 and \$125.

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IV. DEWALD AND GROUNDSWELL

Section 441h(b) prohibits the fraudulent misrepresentation of campaign authority for the purpose of soliciting contributions or donations, as well as participation in, or conspiracy to participate in, any plan, scheme, or design to fraudulently solicit contributions or donations. *See* 2 U.S.C. § 441h(b); *see also* 11 C.F.R. § 110.16. Based on the available evidence, Groundswell violated § 441h(b)(1) by mailing fraudulent fundraising letters requesting contributions to fund a grassroots effort for Gephardt's Presidential campaign. The letters were misleading and may have led reasonable people to conclude that the Gephardt Committee authorized the communications or was involved in generating the fundraising solicitation, particularly because the letters did not contain a disclaimer that the communication was unauthorized by the Gephardt Committee. In addition, the use of a false IRS registration number indicates that the solicitations were part of a scheme to defraud contributors. Based on the letters intercepted by the U.S.P.I.S. contributors to Groundswell mailed approximately 1200 to 1600 checks ranging, on average, between \$50 and \$125, resulting in contributions totaling between \$60,000 and \$200,000.

1 Although we believe that Groundswell and Dewald violated § 441h(b)(1) and various
2 other provisions of the Act, including §§ 433, 434, and 438(a)(4), we recommend that the
3 Commission take no further action other than to send letters of admonishment to these
4 Respondents.

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17 More importantly, Dewald was imprisoned on state fraud charges from September 5,
18 2003 until February 17, 2005, when he was released on parole. The terms of Dewald's parole
19 prohibit him, *inter alia*, from owning a computer or device capable of connecting to the Internet;
20 having a checking account, charge account or credit card; working with direct control or access
21 to money, or being self-employed without his parole officer's consent. See Attachment A at 3.

³ In addition, Dewald opened an account in an Ohio bank in 2003 and deposited "minimal" funds in it, which Michigan was unable to seize.

1 The terms of his parole, including a prohibition on computer and Internet access and certain
2 financial restrictions, appear to have prevented him from engaging in similar conduct since his
3 release from jail. See Attachment A at 3. Although Dewald apparently mailed the Groundswell
4 solicitations during the time period between his fraud conviction in June 2003 and imprisonment
5 in September 2003, the severity of his punishment is likely the strongest possible deterrent
6 against future fraudulent conduct. This punishment substantially vindicates the public interest
7 even though it is not for the precise conduct at issue in this matter.

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12 Moreover, Dewald has been particularly tenacious in challenging his
13 criminal conviction and likely would require this Office to expend resources to pursue litigation,
14 with little chance of monetary recovery. Accordingly, we recommend that the Commission take
15 no further action as to Groundswell and Dewald other than admonishment and close the file.

16 **V. JONATHAN MOSIER**

17 Groundswell's incorporation documents list Jonathan Mosier, who served as a successor
18 Treasurer of Friends for a Democratic White House

19 In addition, the domain name registration for one of
20 Groundswell's websites, <http://groundswellvoters.net>, displays Mosier as the administrative and
21 technical contact. Mosier, however, has denied that he took part in setting up or operating
22 Groundswell. Moreover, he was very cooperative in this Office's investigation, voluntarily

1 providing information and documents pertaining to Dewald's operations, including a pay stub
2 and canceled check from PAC Services, Inc.

3 This Office interviewed Mosier and learned that, in January 2002, Mosier, then a graduate
4 student at Michigan State University, responded to an advertisement placed in the campus
5 newspaper seeking an Assistant Treasurer

6 After a brief interview with
7 Dewald, Mosier was hired to review and sign disclosure reports sent to the Commission. *See id.*
8 at 1, 5.

9 According to Mosier, he simply
10 "checked the math," using a calculator to add up the numbers in the reports. *See id.* The work
11 arrangement was flexible, and Mosier generally reviewed reports at home. These positions paid
12 approximately \$25 per hour for minimal work, and Mosier stated that he wanted the job because
13 he could make "bar money" while having little actual responsibility. *See id.* at 1.

14 According to Mosier, in or around January 2003, Dewald mentioned that he planned to
15 form another political committee to support the anti-war movement. *See id.* at 2-4. Mosier
16 recalled that Dewald mentioned the name "Groundswell Voters PAC" in passing and offered to
17 pay Mosier an additional fee to review and sign the reports for it. Mosier, however, said that he
18 never participated in any activity or saw any documents relating to this entity. *See id.* Mosier,
19 for example, did not review or sign reports, open or access a bank account, register an Internet
20 domain name, file incorporation documents, or solicit contributions for Groundswell. *See id.* at
21 4. In addition, Mosier maintained that he never heard Dewald mention former Congressman
22 Richard Gephardt. *See id.*

Thus, according to Mosier, he knew nothing about Dewald's scheme to defraud potential contributors, did not participate in organizing or operating Groundswell, and had no official role in the organization. This Office has uncovered no evidence to suggest otherwise. Accordingly, we recommend that the Commission take no further action as to Jonathan Mosier and close the file.

VI. RECOMMENDATIONS

1. Take no further action and send a letter of admonishment to Groundswell Voters PAC and Jerome Dewald.
2. Take no further action as to Jonathan Mosier.
3. Close the file.
4. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

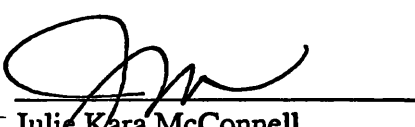
Date

2/28/06

BY:


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Attachment